

# Memo

**To:** Board of Commissioners  
**From:** Planning Board  
Jacky Eubanks, Planning Director  
**Date:** April 16, 2007  
**Re:** Crescent Resources and Key Harbor Development Proposals

**Request:**

The Board of Commissioners to receive reports and conduct one unified public hearing on actions relative to the Crescent and Key Harbor developments. Specifically, the Board is requested to take action and approve the following items:

- 1) **Sherrills Ford Small Area Plan Amendment** to allow up to 3 units per acre when public water and sewer is available, which is consistent with other small area plans.
- 2) **Rezoning of Key Harbor and Crescent Village** to Planned Development – Conditional District subject to the concept site plans and offered and mutually agreed to by the developer and the County.
- 3) A **Development Agreement** which provides amenities and long term benefits to the community associated with the Key Harbor, Village Center, Terrapin Creek and Mountain Creek developments, as mutually agreed to by Key Harbor, LLC, Crescent Resources and the County.
- 4) A **Zoning Consistency Statement** which finds that the Key Harbor and Village Center rezoning requests are consistent with the Sherrills Ford Small Area Plan and are reasonable and in the public interest.

**Overview of Developments:**

The Sherrills Ford Small Area Plan, which was accepted in February 2003, provided land use recommendations which included a village component located at the intersections of Hwy. 150 at Sherrills Ford and Slanting Bridge Roads. One of the largest property owners in the designated village area is Crescent Resources. In 2003, staff met with representatives of Crescent Resources to discuss their long-range development plans for the approximate 2000 acres under Crescent's ownership and how it could be integrated into an overall master plan. The objective of the County was to require Crescent to provide a master plan versus a piecemeal approach for development of the Crescent properties which would maximize benefits and amenities for the community.

The 2000 acres under Crescent's control at that time included four general areas:

- Terrapin Creek – consisting of four parcels totaling approximately 630 acres located north of Molly's Backbone Road and Monbo Road.

- Island Point Road area – a parcel approximately 700 acres in size located between Island Point Road and Molly's Backbone Road (currently depicted as Key Harbor).
- Slanting Bridge Road area – consisting of three parcels totaling approximately 200 acres located at the intersection of Slanting Bridge Road and Hwy. 150 (currently depicted as the Village Center).
- Mountain Creek – a parcel approximately 600 acres in size located on Little Mountain Road which has frontage on Lake Norman. The FERC Relicensing had included a \$1900/acre reduction in value for this property from Duke Energy. This reduction in value could be used by Crescent as matching dollars for grants to secure this property for donation to the County.

These four parcels were excepted from one-acre zoning when the UDO was adopted February 5, 2007, because of the pending application for rezoning of these parcels and a development agreement. If the parcels had been included in the UDO adoption with 1-acre zoning, as applied to the rest of the County, the density allowed on all four parcels could have totaled **2787 residential units** (gross), taking into account the recommendations from the Sherrills Ford Small Area Plan for .75-acre lots along the lakefront and ½ acre lots along Island Point Road where public water exists. The development proposal before the Board of Commissioners calls for a total of **1950 residential units**, which is less than what would have been allowed under the UDO without the exceptions noted above. This is less than the original allowance of **2255 residential units** (gross) recommended by the Sherrills Ford Small Area Plan with partial 2-acre zoning on the tracts.

In order to accommodate a village center with a mixture of commercial, office and multi-family uses, public water and sewer is necessary (note: public water is currently available). Also, to attract large-scale commercial and office development, it is necessary to have an adequate number of homes in the area to support the businesses. In evaluating the parcels and their suitability for development, Crescent proposed to: 1) develop a village center at Slanting Bridge Road/Hwy. 150 and 2) develop the property at Island Point Road with the majority of the housing units within a utility corridor (water and sewer), 3) reserve the Terrapin Creek and Mountain Creek tracts for a lower residential density development. In order to maximize the use of the utility corridor, a concentration of higher density is necessary for the cost-effectiveness of the public investment in sewer. As stated earlier, the Sherrills Ford Small Area Plan provided for low-density residential development in the majority of the district with the exception of areas where public utilities exist. The Plan does indicate that amendments may be necessary when changing conditions warrant, such as the introduction of public sewer. For a discussion of the amendment to the Sherrills Ford Plan, see the discussion below titled "**Sherrills Ford Small Area Plan Amendment.**"

Since the initial discussions with Crescent, the 700-acre tract on Island Point Road has been sold to a development group called MAG Land (now referred to as Key Harbor). This company agreed to the original concept of enjoining their development with Crescent's developments into one unified development proposal for review and approval by the County. As part of the development proposal, negotiations also were conducted on a development agreement which would detail specific amenities and benefits that the developers would provide along with a payment schedule for reimbursing the County for the installation of public sewer to serve the Key Harbor and Village Center developments on a pay-as-you-go basis. The development agreement follows the provisions of an interim agreement negotiated in March 2006. A full discussion of the benefits of the development agreement are discussed below in the section titled "**Development Agreement.**"

In order to incorporate the terms and conditions of the development agreement and provide details of conceptual design features of the proposed developments for Key Harbor and the Village Center, it is necessary to rezone these two parcels from a low-density residential district to a Planned Development - Conditional District. It is also necessary to rezone the Key Harbor and Village Center properties to accommodate higher densities and mixed-uses (see below for a full discussion of the rezoning request in the section titled “**Rezoning for Key Harbor and Crescent Village Center**”). Conditional district zoning is a new state authorized tool which allows for a site specific development plan which incorporates physical design, types of uses, driveway connections, amenities, etc. The Board of Commissioners approved the use of this tool in May 2006. The planned development - conditional zoning district allows limited flexibility in design changes, density and parking variations, subject to a 10% variation in the numerical aspects of the development (such as the number of parking spaces, density, etc), without further public hearings. It is not necessary to rezone the Terrapin Creek and Mountain Creek parcels due to the fact that they are currently zoned for low-density development and are subject to the terms of the development agreement.

In order to review and consider the Crescent and Key Harbor development requests, following is a detailed description of the three necessary components which require action by the Board of Commissioners: Sherrills Ford Small Area Plan Amendment, Rezoning and Development Agreement. A single public hearing is being conducted to receive input on all three components at one time.

## **1) SHERRILLS FORD SMALL AREA PLAN AMENDMENT**

### **Background/Review**

The Sherrills Ford Small Area Plan (SAP) was accepted by the Board of Commissioners in February 2003. The plan provides recommendations on future land uses for the area, including residential densities. When the plan was developed, there were no immediate plans for public sewer to serve the area; therefore, the residential density recommendations in the plan were based on development being served by individual septic systems. The plan further stated that changing conditions, such as the introduction of public sewer to the area, could warrant an amendment to the plan.

Typically, when public utilities are introduced to an area, the number of allowable houses per acre increase since an individual lot will not have to accommodate an on-site septic system and well. This concept was incorporated into the other six small area plans where higher density is allowed when public utilities exist or are extended to an area. Four of the small area plans allow increased density up to 3 units per acre with public water alone. For example, the St. Stephens and Mountain View Small Area Plans allow 3 units per acre when public water is available. The Sherrills Ford Small Area plan also recognized when public water existed in the area, such as along Sherrills Ford Road and Island Point Road, that the residential density for these areas could be increased as compared to other areas not served by public utilities. The Sherrills Ford Small Area Plan committee, at a meeting held in the Summer of 2005, endorsed an amendment to the Sherrills Ford Plan to allow for higher density within utility corridors when water and sewer becomes available. To be consistent with this policy and the Sherrills Ford Small Area Plan committee, it is recommended that the following language be added to the text of the Sherrills Ford Small Area plan under the Land Use Recommendations for residential uses:

9. Areas served by both public water and sewer can be developed with high residential density up to 3 units per acre.

## **2) REZONING OF KEY HARBOR AND CRESCENT VILLAGE CENTER**

Crescent Resources, Inc., Carolina Centers, LLC, Key Harbor Holdings, LLC and Key Harbor Communities, LLC have submitted individual applications to rezone four parcels, which includes 1 parcel for the Key Harbor project and 3 parcels for the Village Center, from R-80 Residential and RC Rural Commercial to Planned Development-Conditional District (PD-CD). Following is an analysis of the rezoning request.

**Location:**

***Key Harbor***

A parcel approximately 701 acres in size located in the Sherrills Ford Small Area Planning District, Mountain Creek Township, which is roughly bound on the east by Lake Norman and Azalea Rd (SR 1837), on the north by Azalea Road (SR 1837) and Dog Leg Road (SR 1836), on the west by Raccoon Track Drive and the Norfolk Southern Railway, and on the south by Island Point Road (SR 1838), and further identified as the majority portion of Parcel ID Number 4619-04-61-6962.

***Village Center***

Three parcels approximately 192 acres in size located in the Sherrills Ford Small Area Planning District, Mountain Creek Township, which is located at and around the intersection of Slanting Bridge Road (SR 1844) and East NC Highway 150, and further identified as Parcel ID numbers 4607-16-83-2252 (portion of), 4607-16-73-6008 and 4607-16-92-7839.

**Project Description and Zoning Standards**

***Key Harbor***

The property is located within the Watershed Protection Overlay (WP-O), and portions of the property are located within the Floodplain Management Overlay (FP-O) and the Catawba River Corridor Overlay (CRC-O) Districts. In order for the Key Harbor project to comply with the watershed protection standards, the development must be approved as a cluster subdivision which requires a minimum of 25% open space and where the overall density does not exceed .46 acre (20,000 square feet) per lot, averaging the tract as a whole.

Key Harbor is proposing a maximum of 1400 single-family residential units, which must be at least 2000 square feet, and an additional 100 which are attached housing (townhomes). Based on this number of units, the proposed residential density is approximately 2 units per acre. Development of the total 1500 units could occur over a maximum of twenty years.

***Village Center***

The three tracts, which comprise the Village Center, are located within the Watershed Protection Overlay (WP-O), Mixed-Use Corridor Overlay (MUC-O), Floodplain Management Overlay (FP-O) and the Catawba River Corridor Overlay (CRC-O) Districts, all of which have specific use and density standards for development.

The MUC-O District requires specific design standards for building, types of materials, parking, lighting, signage and landscaping. In order to comply with the Watershed Protection Overlay, a high-density option is being requested for the site which will allow up to 50% imperviousness with stormwater controls being installed. When the rezoning is approved, detailed engineering plans for the high-density stormwater design must be submitted for review and approval which will detail the impervious area and the types of and design for stormwater facilities to be installed. Such plans will ultimately address the quantity of surface water on and off-site, as required by the State's watershed regulations.

The proposed uses located within the Village Center consist of the following:

- 145 single-family units;
- 70 multi-family units;
- 135 senior housing units;
- 77,000 square foot of mixed use;
- 163,000 square foot of office space, including a medical center;
- 414,000 square foot of retail;
- YMCA and elementary school;
- Community services center for services such as a public library, emergency services, etc.

Within 5 years, 125,000 square feet of retail must be complete and the remaining 289,000 square feet of retail must be complete within 7 years. The medical office component must commence within 7 years and be completed with 10 years. The residential components must commence within five years and be completed within 10 years.

### **Land Use and Zoning:**

#### ***Key Harbor***

The subject parcel is zoned R-80 Residential and is vacant/wooded:

- **North** – The properties to the north are zoned R-30 Residential and R-40 Residential and are either vacant/wooded or occupied by single-family residences.
- **South** – The properties to the south are zoned R-20 Residential and are vacant.
- **East** – The properties to the east are zoned R-30 Residential and are either vacant/wooded or occupied by a single-family residences.
- **West** – The properties to the west are zoned R-20 Residential and R-40 Residential and are either vacant/wooded or occupied by single-family residences.

#### ***Village Center***

The subject parcels are zoned R-80 Residential and RC Rural Commercial and are either vacant/wooded or occupied by an office and storage buildings:

- **North** – The properties to the north are zoned R-20 Residential and are either vacant/wooded or occupied by single-family residences.
- **South** – The properties to the south are zoned R-20 Residential, R-30 Residential, O-I Office-Institutional and HC Highway Commercial and are vacant/wooded, occupied by a boat dealership (HC), a professional office (O-I), a church (R-20), or single-family residences (R-30).
- **East** – The properties to the east are zoned R-20 Residential and R-30 Residential and are either vacant/wooded or occupied by single-family residences.

- **West** – The properties to the west across the Norfolk Southern Railway are zoned R-30 Residential and are either vacant/wooded or occupied by single-family residences.
- **Note** – The Sherrills Ford Fire Department is located on the western side of Slanting Bridge Road, and for all practical purposes is surrounded by the rezoning area. This property is zoned R-30 Residential. The property at the northwest corner of Slanting Bridge Road and NC Highway 150 is zoned RC Rural Commercial.

### **Rezoning and Planning History of Subject Parcels and Surrounding Area**

#### **Key Harbor**

- April 30, 1985, parcel # 53 VAR-45, denied setback variance request
- March 31, 2006, Key Harbor - Phase I, sketch plan approval for 212 lots
- June 28, 2006, Key Harbor - Phase I preliminary approval for 212 lots

#### **Village Center**

- December 17, 1979, subject property, SU-34, approved construction of office and storage building
- November 16, 1992, parcel # 33, R-335, rezoned from R-2 to E-2
- November 24, 1992, subject property, EXT-104, approved extension of non-conforming use
- December 18, 2000, parcel # 6, R-452, rezoned from R-2 to O-I
- February 17, 2003, parcel # 20, R-470, denied rezoning from R-2 to C-1

### **Purpose of Zoning Districts**

The Catawba County UDO Section 44-443, Planned Development (PD) District states the following:

- *“The planned development district is established to encourage the master planning of large scale, multiple and/or mixed use development patterns. Applicants who propose a planned development have more flexibility and creativity in design than is possible under conventional zoning regulations. The planned development process:*
  - ◆ *Allows for the layout of uses and open space that promote high standards in design and construction which furthers the purposes of the small area plans.*
  - ◆ *Encourages well-planned, efficient development to promote economical and efficient land uses.*
  - ◆ *Allows a planned and coordinated mix of land uses which are compatible and are harmonious, but were previously discouraged by conventional zoning procedures.*
  - ◆ *Encourages the development of contiguous large lot parcels into an integrated and orderly pattern, with particular attention to developing an efficient and coordinated network of internal streets.*
  - ◆ *Promotes the clustering of structures and other uses in order to preserve unique and natural features such as woodlands, wetlands, natural drainage systems and scenic areas.*
  - ◆ *Reserves adequate public right-of-way within development areas for the eventual extension of arterial and collector streets, including proper width and spacing of such streets.*
  - ◆ *A planned development is defined based upon the following general characteristics:*
    - ◆ *Aggregate size and number of non-residential buildings.*
    - ◆ *Mixture of housing types including single family with multi-family.*

- ◆ *A combination of uses such as retail/commercial with residential or office uses.”*

The Catawba County UDO Section 44-327, Conditional Zoning District (CD) states the following:

- *“The conditional zoning districts included herein allow for the consideration of certain uses that, because of their nature or scale, have particular impacts on both the immediate area and the community as a whole and are created or established for selected criteria as indicated in the applicability section below. The development of these uses cannot be predetermined and controlled by general district regulations. In addition, circumstances arise when a general zoning district designation would not be appropriate for a certain property, but specific uses permitted under the district would be consistent with the objectives of this section. To accommodate those situations, this section establishes the conditional zoning district process. A conditional zoning district is not intended for securing speculative zoning for a proposal but rather is based on a firm development proposal.*

### **Conditional Zoning**

The applicants have requested rezoning to a Planned Development – Conditional District (PD-CD) zone. As outlined in the two paragraphs above, the PD-CD district is intended to provide for the location of master planned projects that have clear and firm development proposals. Conditional zoning is a process in which site and use specific development proposals are submitted for review and approval. Sites approved as conditional zoning districts are limited in terms of use and design in accordance with approved plans and conditions. Such properties may only develop in accordance with approved plans. Substantive modifications, beyond 10% of the dimensional criteria, require re-submittal and re-approval by the Board of Commissioners.

As part of the conditional zoning, a developer submits a list of voluntary conditions which exceed the general zoning standards that would apply to the site if the property is rezoned. Outlined below are some of the conditions offered by the applicants, negotiated and recommended by staff and the Planning Board (please refer to the attached conditional notes for the complete set of conditions submitted).

### **Key Harbor Conditions**

1. A lighting plan, including locations, types of uniform fixtures and theme banners affixed to the light poles will be submitted by the Petitioner for approval by the County.
2. Signage will be permitted in accordance with applicable UDO standards. Freestanding signs will be monument style. Pennants or flags along the road frontage of the development or entranceway(s) are not permitted.
3. All subdivision roads will be dedicated to the public.
4. A pedestrian and bicycle network to connect the various elements within the site will be developed. Linkages will be established to connect buildings and uses on the site to this pedestrian network.
5. Vehicular and pedestrian access must be constructed to the 22-acre site being donated to the Sherrills Ford Optimist Club.
6. An open space plan will be submitted to and approved by the Subdivision Review Board. The open space plan will attempt to provide pocket parks/green space within Coves A, G and J without the loss of the total number of lots in the overall development. The open space areas will be developed with a combination of active and passive recreation areas, sidewalks, trails, pathways, and other amenities consistent with the purpose and provisions of this Petition. Public sidewalks, a minimum

of 5 feet wide, will be constructed along each side of the road frontage where homes are constructed. Pedestrian street crossings will be textured or stamped asphalt. Consideration for pedestrian access to connect Cove K to the main development will be incorporated into the pedestrian plan. A bike path will be constructed from the Key Harbor development along the north side of Island Point Road to Sherrills Ford Road.

7. Minimum square footage requirements for single-family dwellings (does not include up to 100 townhomes) will be at least as restrictive as those of Northview Harbor:
  - Waterfront:
    - 1 story = 2200 sq. ft.
    - 1 ½ and 2 story = 2800 sq. ft.
  - Non-waterfront:
    - 1 story = 2000 sq. ft.
    - 1 ½ story and 2 story = 2400 sq. ft.
8. Front façade of homes must be covered only with brick, stone, hard stucco, wood or siding consisting of wood or composite materials. Vinyl products are allowed as an accent material.
9. A landscape plan must be submitted for street trees (types and location), amenity areas, the boat storage area and townhouse area.
10. The two community lake access sites must incorporate low-impact development (LID) design standards to address stormwater runoff as well as include amenities such as picnic tables, gazebos and trails.

### ***Village Center Conditions***

1. The Petitioner will comply with the applicable portions of the Floodplain Management Overlay, Mixed-Use Corridor Overlay (MUC-O) and Watershed Protection Overlay-high density option standards of the UDO. Flexibility in the MUC-O standards may be allowed subject to the approved guidelines for the Planned Development zoning.
2. A lighting plan with a consistent theme and fixture design will be submitted for approval by County staff for each site component.
3. The Petitioner will submit a plan for a pedestrian and bicycle network. Pedestrian linkage at the lakefront will be incorporated into the plan. Bicycle parking will be provided at blocks of non-residential facilities, including the library/public services facility, restaurants and other retail uses.
4. The retail floor area for a single tenant retail structure will be limited to 175,000 square feet and no more than two single tenants may exceed 100,000 square feet. Buildings greater than 75,000 square feet must break up the front of the building so that a straight linear front, typical of big boxes, is not constructed. If a 'garden center' is built as part of any such use, the area of the 'garden center' will be counted in the total floor area for that tenant. In addition, the Petitioner will limit the number of out parcels (out parcels are defined as any lots which contain freestanding buildings fronting along NC Hw. 150) that may accommodate "auto oriented" uses such as gas stations to two sites and restaurants with drive in windows to a total of four. Further, the Petitioner may add an additional 25,000 sq. ft. of retail floor area on the second floor of other structures used for retail use.
5. An open space plan will be developed which incorporates a combination of active and passive recreation areas, trails, pathways, and other amenities. This plan will include trails behind the proposed school site to connect to the residential development and provide connection from the



waterfront area to the retail on the north side of Hwy. 150. A trail system in key segments will be constructed, which includes the waterfront area and connection to the retail sites.

6. A consistent architectural theme and color scheme throughout the village will be used, subject to approval by County staff.
7. Non-residential development will not use vinyl as a principal building material; however, it may be used as an accent material.
8. Front façade of single-family homes must be covered only with brick, stone, hard stucco, wood or siding consisting of wood or composite materials. Vinyl products are allowed as an accent material.
9. Outdoor shipping containers are prohibited.
10. The display of items for sale or motorized vehicles will not be allowed in the parking lot areas.
11. The final site plan must incorporate a design which incorporates types of uses which maximize the water frontage exposure to view from retail, restaurants, offices and live/work units.
12. The final site plan must provide a streetscape within the neighborhood center and community retail center which accommodates storefront features which links the outlying retail and residential areas.
13. Alternative signalization fixtures on Hwy. 150 to reduce overhead clutter, such as mast arm type fixtures, subject to NCDOT approval.

### **Utilities**

Public water is available to the Key Harbor and Village Center sites. The development of the properties will necessitate the installation of public sewer service. Public sewer is currently not available to any of the development sites; however, agreements are in place that would make sewer available to the sites. In August 2006, the County entered into a signed agreement with the City of Hickory for 750,000 gallons per day capacity in the Town of Catawba wastewater treatment plant. Additionally, the County entered into an agreement with the Town of Mooresville for 750,000 gallons per day of capacity. Currently, the County has 100,000 gallons per day capacity in the Town of Catawba plant which is available for sewage treatment until the time the plant is expanded.

A sewer pump & haul operation would be initiated only if necessary, once the first home is ready for occupancy. It is estimated that the developer's infrastructure will not be completely installed (and thus home building will not begin) for another 18 months. Assuming a home will take 12 months to go from permit to complete construction, the first gallon of sewage won't be ready for treatment until 30 months from now, coinciding with the completion of the County's wastewater collection system installation timeline. If the wastewater system contractor(s) are behind schedule due to acts of God or unforeseen reasons out of their control, or the developer's construction is ahead of schedule, the County would request a State permit for pump & haul on a short-term, temporary basis. No building Certificates of Occupancy would be issued unless State approved wastewater and water provisions are available.

### **Public Services**

As the Key Harbor and Village Center developments build out, the County will look at the need for additional public safety services, such as law enforcement, which would be funded by the increased property tax paid by new development. As part of the development agreement, 2 acres of land is being donated to the County in the Village Center for a community services center. Community services, such as public safety, a library or other county services, may be located in this community service center.

### **Transportation**

For each project, a Traffic Impact Analysis (TIA) has been produced and is currently under review by NCDOT. Pending approval of the TIAs by NCDOT, certain transportation and traffic improvements must be constructed by the developer to mitigate adverse impacts created by the proposed developments. A summary of the proposed transportation improvements is outlined below.

#### ***Key Harbor***

- Intersection of NC 150 and Sherrills Ford Road: Turn lanes and signal upgrades.
- Intersection of NC 150 and Slanting Bridge Road: Turn lanes and signal upgrades
- Intersection of Sherrills Ford Road and Slanting Bridge Road: New traffic signal and turn lane.
- Intersection of Sherrills Ford Road and Island Point Road: New traffic signal, turn lanes, and improvements to elementary school entrance.
- Intersection of Sherrills Ford Road and Mollys Backbone Road New traffic signal and turn lanes.

#### ***Village Center***

NC Highway 150 is designated as a major thoroughfare by the Catawba County Transportation Plan. Major thoroughfares are defined as primary traffic arteries of the urban area. Their purpose is to move traffic from city to city and within urban areas; therefore, strip development and multiple driveway access is to be discouraged.

At this particular location, NC Highway 150 is a 2-lane roadway. 2004 traffic counts were taken to the east and the west the intersection of NC Highway 150 and Slanting Bridge Road. This study measured an average daily traffic (ADT) count of 13,000 and 10,000, respectively.

The capacity of this particular span of NC Highway 150 is estimated to be approximately 10,000 to 12,000 vehicles per day (VPD). The State Transportation Improvement Plan (STIP) contains plans for the widening of NC Highway 150 to a multi-lane facility. The planning and design portion of the project is currently funded, and is in its preliminary stages; however, right-of-way acquisition and construction remain unfunded. The Sherrills Ford Small Area Plan acknowledges the future widening of NC Highway 150, and recommended construction of a four-lane divided highway with landscaped medians. Consistently, for the past 15 years, Catawba County has requested funding from NCDOT for the widening of NC Highway 150.

The TIA identifies the following traffic improvements for the Village Center:

- NC 150 at project site: Turn lanes (right and left), median and traffic signal east of intersection with Slanting Bridge Road, limited access intersections (right-in/right-out).
- Slanting Bridge Road at project site: Turn lanes (right and left).
- Intersection of NC 150 and Slanting Bridge Road: Upgrade existing traffic signal phasing, turn lanes (right and left).
- Intersection of NC 150 and NC 16: Right turn lane.
- Intersection of NC 150 and Sherrills Ford Road: Right turn lane and upgrade existing traffic signal phasing.
- NC 150 at project site: Developer will design/construct the widening of NC 150 to a 4-lane section for the entire frontage of the property. Setbacks of buildings will be provided for additional potential widening of the highway.

### **Land Use Plan**

The Sherrills Ford Small Area Plan, accepted by the Board of Commissioners on February 17, 2003, serves as the current land use plan for this area. The plan recommendations concerning the individual properties are as follows:

***Key Harbor***

As earlier outlined, an amendment is being requested which would revise the Sherrills Ford Small Area Plan to allow for a residential density of 3 units per acre where public sewer and water are available, which is consistent with the majority of other small area plans in the County. The area in question is currently designated as a residential area.

***Village Center***

The development site for the Village Center is identified by the plan as being within a "Village-Mixed Use" area. The "Village-Mixed Use" area is recommended to contain a mixture of commercial, office and residential land-uses. Such varying types of land-uses are recommended to be in close proximity to one another to provide convenience goods and services to surrounding neighborhoods, as well as encouraging linkages to employment centers.

### **3) DEVELOPMENT AGREEMENT**

**Background/Review:**

North Carolina General Statutes §153A-349 et. seq allows local governments to enter into a development agreement with a developer to mitigate for the impacts of a large-scale development project through the securing of amenities which will address growth, improve quality of life and provide long-term benefits to the community. The agreement also provides assurance to the developer that development standards will remain stable over the long-term life of the project.

The proposed Key Harbor and Crescent Resources developments, due to their size and long-term build out, qualify under the General Statutes to be subject to a development agreement. The County and representatives of Crescent Resources, Inc., Carolina Centers, LLC, Key Harbor Communities, LLC and Key Harbor Holdings, LLC have co-drafted a development agreement that is viewed to be in the best interest of the County by providing orderly growth and long-term benefits to the community, while meeting the interests of the developers. The Key Harbor and Crescent development agreement is one of the first such agreements negotiated in North Carolina pursuant to legislation adopted in 2005. It establishes the terms and structure of the development by two companies of approximately 2,000 acres consisting of four, nonadjacent proposed developments located in the Sherrills Ford area of Catawba County. An interim agreement, which provides details of the amenities and improvements to be provided, was approved by all parties in March 2006. The development agreement reflects the negotiated terms in the interim agreement.

The term of the attached development agreement is twenty years. It provides for numerous public donations and exactions as well as for scheduled extensions of public sewer. Following is an overview of the development agreement.

**Overview of Development Agreement:**

**General Provisions:**

- Key Harbor, LLC to develop a maximum of 1400 single-family homes, at least 2000 square feet, and 100 attached homes on 700 acres. This development, referred to as **Key Harbor**, is located on property identified as the majority of PIN 4619-04-61-6962.

The build out of the development originally was proposed to be 10 years, but can now be up to 20 years.

- Crescent Resources to develop a mixed-use retail/office/residential development on 200 acres. This development, referred to as the **Village Center**, is located on the following parcels:

4607-16-83-2252 (the majority of)  
4607-16-73-6008  
4607-16-92-7839

Within 5 years, 125,000 square feet of retail must be complete and the remaining 289,000 square feet of retail must be complete within 7 years. The medical office component must commence within 7 years and be completed with 10 years. The residential components must commence within five years and be completed within 10 years.

- Crescent will develop up to 100 homes in a low-density conservation style development on 630 acres. This development, referred to as **Terrapin Creek**, is located on the following parcels:

4609-04-93-8888  
4609-02-97-0884  
4619-01-18-1763  
4619-01-17-6406  
4619-01-26-6940

No specific development schedule is designated for this project.

- Crescent will seek funding to acquire 600 acres for Catawba County or, alternatively, if funding does not materialize, will donate half of the parcel (300 acres) to the County for a public park and develop the other half (300 acres) as single family homes not to exceed 150 homes. This project, referred to as **Mountain Creek**, is located on property identified as PIN 3698-04-74-3141. No specific development schedule is designated for this project. Separate from the development agreement, the FERC Relicensing had included a \$1900/acre reduction in value for this property from Duke Energy. This reduction in value could be used by Crescent as matching dollars for grants to secure this property for donation to the County.

#### **County Benefits:**

**Key Harbor** has agreed to the following:

- acquire and donate a 22-acre site to the Sherrills Ford Optimist Club for community use
- reconfigure and improve the Sherrills Ford Elementary School parking area
- make all right-of-way dedications, road widenings, signal upgrades, and other improvements indicated by the Traffic Impact Analysis, including the following subject to NCDOT approval:
  - Dedicated turn lanes and re-configured signal timing at the intersection of Highway 150 and Sherrills Ford Road;

- Dedicated turn lanes and signal installation at the intersection of Sherrills Ford Road and Island Point Road;
- Signal installation and dedicated turn lanes at the intersection of Sherrills Ford Road and Slanting Bridge Road;
- Signal installation and dedicated turn lanes at the intersection of Sherrills Ford Road and Molly's Backbone Road; and
- Dedicated turn lanes and re-configured signal timing at the intersection of Highway 150 and Slanting Bridge Road.
- pave a bike path along its road frontage to Sherrills Ford Road, to be located on the northern side of Island Point Road within existing NCDOT right-of-way
- attempt to acquire the Terrell General Store and move it to a protected location so that the intersection can be upgraded
- adopt restrictive covenants not less restrictive than those of Northview Harbor

**Crescent** has agreed to the following:

- reserve 25 acres for a school site in the Village Center; alternatively to donate the value of the 25 acres if the Board of Education decides on a different site.
- donate a 2-acre site in the Village Center for a county service center for services such as a public library, emergency services, etc.
- donate to the county \$750,000 for the service center construction cost or for emergency equipment acquisition
- reserve 10 acres in the Village Center for the YMCA at a price not to exceed \$50,000 per acre, for a period of up to 8 years
- reserve 10 acres in the Village Center for the Catawba County Medical Center at a price not to exceed \$50,000 per acre, for a period of up to 8 years
- make all right-of-way dedications, road widenings, signal upgrades, and other improvements indicated by the Traffic Impact Analysis, including the following subject to NCDOT approval:
  - Dedicating additional right-of-way for the future widening of Highway 150 to a minimum of four lanes;
  - Construction of a 4-lane section of Highway 150 along the frontage of the Village Center;
  - Other off-site improvements as determined in the Traffic Impact Analysis
- donate land and right of way for sewer pump stations and sewer lines
- donate land to the County for a future park, consisting of up to 600 acres or a minimum of 300 acres

### **Public Sewer**

The County agrees to provide public sewer to Key Harbor and the Village Center. Crescent will meet a construction schedule, as outlined above, and pay standard capital fees. As a financing mechanism, Key Harbor guarantees that it will either 1) construct 150 homes per year at standard water/sewer capital fees or 2) pay the county higher capital fees for the difference between homes built and the required 150 homes per year.

A sewer pump & haul operation would be initiated only if necessary, once the first home is ready for occupancy. It is estimated that the developer's infrastructure will not be completely installed (and thus home building will not begin) for another 18 months. Assuming a home will take 12 months to go from permit to complete construction, the first gallon of sewage won't be ready for treatment until 30 months from now, coinciding with the completion of the County's wastewater collection system installation timeline. If the wastewater system contractor(s) are behind schedule due to acts of God or unforeseen reasons out of their control, or the developer's construction is ahead of schedule, the County would request a State permit for pump & haul on a short-term, temporary basis. No building Certificates of Occupancy would be issued unless State approved wastewater and water provisions are available.

### **Enforcement**

If the developers fail to pay required capital fees or commit any other material breach of this agreement, the County may withhold all building permits and certificates of occupancy from the breaching party.

Each developer agrees that the county may sue for specific performance of the agreement and if it prevails, the County shall be awarded attorneys fees. The developers may not receive attorney's fees if they prevail.

### **Procedure for Adoption of the Development Agreement**

A development agreement adopted pursuant to N.C.G.S. 153A-349 must be noticed to the public and adopted like any other zoning ordinance amendment. Adjoining property owners of the four development agreement areas have received individual mail notice and the properties have been posted with signs noting the time and place of a public hearing. The Board of Commissioners must conduct a public hearing in order to consider adoption of the development agreement.

## **PLANNING BOARD PUBLIC HEARING AND RECOMMENDATION**

The Planning Board conducted a public hearing on the Key Harbor and Crescent Village Center development proposals at its March 26, 2007 meeting. Approximately 75 citizens were in attendance with 21 people speaking during the public hearing portion of the meeting. Ten (10) people asked clarification questions, three (3) spoke in support of the projects and eight (8) spoke in opposition. The main issues of concern that were raised included:

- 1) **Issue:**       **Density of the Key Harbor project**

**Response:** The four parcels, Key Harbor, Crescent Village, Terrapin Creek and Mountain Creek, were excepted from one-acre zoning when the UDO was adopted February

5, 2007, pending an application for rezoning of these parcels and finalizing a development agreement.

- a) The development proposal calls for a total of **1950 residential units** which is less than what would have been allowed under the UDO or the Small Area Plans as discussed in b) and c) below.
- b) If the parcels had been included in the UDO adoption, reflecting the Board's decision to adopt 1-acre zoning, the density allowed on all four parcels could have totaled **2787 residential units** (gross), taking into account the recommendations from the Sherrills Ford Small Area Plan for .75-acre lots along the lakefront and ½ acre lots along Island Point Road where public water exists.
- c) The original Sherrills Ford Small Area Plan recommended **2255 residential units** (gross) with partial 2-acre zoning on the tract.

Focusing on the Key Harbor development proposal specifically, staff would point out the following:

- a) The majority of small area plans have a provision which allows a density of three units per acre when public water and/or sewer are available. The Sherrills Ford Small Area Plan recommends a higher density of 2 units per acre along existing waterlines (Sherrills Ford Road, Island Point Road and Beatty Road). Public sewer was not contemplated in the plan, so 2 units per acre was the highest density recommended. However, the plan did acknowledge that changing conditions, such as the introduction of public sewer, could trigger an amendment to the Plan to allow higher density than what was currently recommended (3 or more units per acre). Based upon the installation of public water and sewer, the Key Harbor project could yield a total of **2100 units** (gross) (700 acres x 3 units/acre) as compared to the proposal of **1500 units** (gross).
- b) Historically, the density allowed throughout the County with the presence of public water and sewer in 24 out of the last 30 years allowed 3 units per acre with only one public utility available. With both utilities available, a density of 3.5 units per acre would have been allowed.
- c) The Key Harbor subdivision is proposing a cluster subdivision in order to comply with the watershed protection regulations (see discussion in #5 below). Cluster subdivisions have been an option for developers since 2001. This option allows a developer to reduce individual lot sizes in exchange for permanent, interconnected open space. The overall density of the development basically remains the same as with a conventional subdivision. For example, with 1500 units proposed in Key Harbor on 700 acres, the overall average density is 2.1 units per acre. When clustering provisions are used and 25% of the area is reserved for open space, excluding the area in the road system, the individual lot size averages .30 acre, which calculates to 3 units per developed acre for the overall project.

2) **Issue: School capacity**

**Response:** Following are statistics from Dr. Markley regarding available school capacity to serve the Key Harbor development and the area:

Elementary schools:

- Sherrills Ford – current capacity is 598; anticipates an enrollment of 553 students in Fall 2007 with the opening of the new Catawba Elementary School
- Balls Creek –building capacity of 851, with a current enrollment of 697 students with the opening of the new Catawba Elementary School
- Catawba – new construction with a capacity of 700 students; anticipates 474 students when school opens in Fall 2007
- 2/3 of the students from Key Harbor will go to new Catawba Elementary school
- A new elementary school in Sherrills Ford is requested in the capital improvements within 5 years

Middle school:

- Mill Creek Middle – building capacity is 700 with a current enrollment of 544 students

High school:

- Bandy's – building capacity of 900 with a current enrollment 971 students
- Next year, a 12 classroom expansion at Bandy's High School is planned

3) **Issue:**      **Transportation and road improvements**

**Response:** See full discussion under “Transportation” section of this memorandum

4) **Issue:**      **“Big box” proposed in the Village Center**

**Response:** The Village Center is divided into two parts:

- 1) The north side, considered as the “village core,” has more characteristics of a classical village including a neighborhood retail center, multi-family/senior housing, community facilities such as a medical center, library, public safety and YMCA, education and single-family neighborhood interconnected with pedestrian amenities (pocket parks, sidewalks and trails).
- 2) The south side has more characteristics of a mixed-use center which includes a large-scale retail site, small offices and retail, restaurants with an emphasis of a public park on the waterfront connected with a greenway trail.

The Village Center development conditions allow a retail floor area for a single tenant structure to be limited to 175,000 square feet and no more than two single tenants not to exceed 100,000 square feet. The UDO and development conditions require any buildings greater than 75,000 square feet to consist of recessions and projections as to break up the front elevation of the building to alleviate the “big box” appearance. The orientation of the 175,000 square foot building on the south side also tends to lessen the impacts of the “big box” appearance through the following:

- a. A building setback from Highway 150 of approximately 700 feet



- b. The building is angled away from the road frontage of Highway 150 which will soften the visual impact
- c. The shielding of the “big box” and parking area with buildings fronting along Highway 150

In addition to this project, there will be approximately 500 acres earmarked for village center development as called for in the Sherrills Ford Small Area Plan. There is an opportunity for a potential classical village with small-scale shops and businesses as envisioned in the plan closer to the intersection of Sherrills Ford Road and Highway 150.

5) **Issue: Pedestrian-friendly component of the Village Center**

**Response:** The Village Center site plan incorporates pedestrian amenities, such as trails and sidewalks, which link the various components of the village. The Village Center development conditions require the developer to submit a **detailed** plan for a pedestrian and bicycle network to connect the various elements within the site. Linkages are to be established to connect buildings and uses on the site to the pedestrian network. Details of the pedestrian linkage at the lakefront will be incorporated into the plan.

Crescent, along with NCDOT and staff, explored options of safely crossing Highway 150. It is not envisioned that pedestrians will be crossing Highway 150 on a regular basis. Rather, safe intersections need to be included in the event of occasional crossings. The idea of a tunnel underneath as well as a bridge over Highway 150 was discussed and neither option was suitable to NCDOT nor were they compatible with the village setting. The tunnel concept was not advantageous due to personal safety concerns. The bridge over Highway 150 would not be aesthetically pleasing. A pedestrian crossing would be most appropriate at the 4-way traffic signal with a dedicated crosswalk, which connects the main entryway into the northern and southern portions of the village.

6) **Issue: On-site stormwater and erosion control**

**Response:** Both Key Harbor and the Village Center are located in a WS-IV critical watershed, which is a State-mandated program enforced by the County. The conditions for Key Harbor and the Village Center state that the developments will comply with watershed regulations. Following are the requirements for each and how the developments will comply.

**Key Harbor:** residential development must consist of individual lots containing a minimum of 20,000 square feet (.46 acre) or clustered lots such that the overall development meets an average density of 20,000 square feet. The Key Harbor project is not required to meet a maximum imperviousness requirement nor treat runoff from the development because the residential development meets an average density of 20,000 square feet. Key Harbor will be approved as a cluster subdivision which meets the overall density of 20,000 square feet (700 acres divided by .46 acre/lot equals a maximum of 1521 lots allowable). The County's UDO requires cluster subdivisions to contain a minimum of 25% open space. The Key Harbor project is proposing to retain buffers and natural areas along the creeks to meet the open space requirement which will serve to impede stormwater flow and filter out many of the recognized runoff pollutants. Additional flow from impervious areas is not expected to impact surrounding properties. The specific

locations and detailed calculations of the open space will be submitted with the subdivision plats to be approved by the Subdivision Review Board.

An erosion control plan has been submitted and approved for the Key Harbor project which shows 64 acres of disturbance for the initial phase of the project, including many interior roads. As future phases are proposed, erosion control plans will be submitted and approved with on-site inspections conducted by the County to ensure compliance. On March 26, County staff walked the Key Harbor property and the developer is in compliance with the approved soil erosion plan.

The State watershed and stormwater regulations (and industry standards) is to treat the first inch of runoff from developed areas. The majority of pollutants will be captured in the first inch of runoff; capturing more than one inch results in diminishing returns. One inch of runoff from the maximum Built Upon Area of the Key Harbor development would equal 4.54 million gallons of water. A glance at the topography of the project would reveal several drainage basins in which the runoff would flow; the entire 4.54 million gallons would certainly not flow into the Lake at one discharge point. The Key Harbor project has extensive buffers and natural areas that will impede stormwater flow and filter out many of the recognized runoff pollutants. Additional flow from impervious areas is not expected to impact surrounding properties. Please note, Key Harbor is not required to meet a maximum built-upon area requirement because the watershed protection regulations require residential development to meet density requirements of which Key Harbor will comply.

***Crescent Village:*** non-residential development within the village must meet a minimum 24% imperviousness requirement, unless a high-density option is approved. The high-density option allows up to 50% imperviousness when stormwater controls are installed. The Crescent Village conditions indicate they will meet the high-density option of the watershed regulations. The County's UDO, based upon the State's model ordinance, allows other types of stormwater control than open detention basins. The State watershed and stormwater regulations (and industry standards) are to treat the first inch of runoff from developed areas. The majority of pollutants will be captured in the first inch of runoff; capturing more than one inch results in diminishing returns. The engineering details for stormwater controls are not typically prepared unless and until the rezoning of the property is approved.

An erosion control plan will be submitted for approval by the County at the time the developer expects to grade more than one acre.

7) ***Issue: Building permit history in Sherrills Ford area***

***Response:*** There was a question about how many recent building permits were issued in the Sherrill's Ford area. During the calendar year 2006, 92 single-family new construction permits were issued. There were 704 single-family new construction permits issued throughout the entire County, so 13% of new construction within the County occurs within the Sherrill's Ford area.

8) ***Issue: Sewage treatment, including pump and haul***

**Response:** The sewage treatment plant at the Town of Catawba is currently being upgraded, with the design 95% complete. Once completed, the upgraded, state-of-the-art facility will have a capacity of 1.5 million gallons per day (MGD), and will be expandable to 3.4 MGD. The County owns 100,000 gallons of capacity in the existing plant and will own 750,000 gallons in the new plant. In addition, the County has available a guaranteed 750,000 gallons in the Mooresville treatment plant. In expanding and upgrading the Catawba plant, the County will be able to take offline 9 small "package" plants that currently discharge into the Catawba River system.

A sewer pump & haul operation would be initiated only if necessary, once the first home is ready for occupancy. It is estimated that the first home will not be ready for occupancy until early 2009. The first gallon of sewage would not be ready for treatment until that time. We anticipate completion of the sewage collection system within 30 months. If, for a limited time, there is a need for a temporary wastewater treatment system, the County would request a State permit for pump & haul on a short-term, temporary basis. No building Certificates of Occupancy would be issued unless State approved wastewater and water provisions are available.

The Planning Board discussed the development proposals and commented that the holistic approach of the development is better than a piecemeal approach. Also the Board commented that the amenities which are being offered through the development agreement and conditional zoning will provide long-term benefits for the community. Following are the official actions taken by the Planning Board:

- 1) Recommended approval for an amendment to the Sherrills Ford Small Area Plan to allow up to 3 units per acre when public water and sewer is available. Vote: 8-0
- 2) Recommended the rezoning of the Key Harbor and Crescent Village Center properties to Planned Development – Conditional District (PD-CD). The Board found that the zoning was consistent with the Sherrills Ford Small Area Plan, subject to the amendment in #1 above, and the rezoning was reasonable and in the public interest. Vote: 7-1. Opposed was Stuart DeWitt who cited concerns over the impacts of the development on infrastructure, such as schools, fire, rescue, law enforcement and roads.
- 3) Recommended approval of the development agreement with the following amendments:
  - a. Catawba County officially requests the NCDOT to reduce speed limits down to 45 mph on Island Point Road, Molly's Backbone and Azalea Road.
  - b. If grants are not secured for the Mountain Creek tract and the default position of 150 lots are permitted for development, then the subdivision must be designed as a cluster-style development.

Vote 7-1. Opposed was Stuart DeWitt based on the disagreement to rezone the Key Harbor and Crescent Village Center properties as noted in #2 above.

## **RECOMMENDATION**

Staff and Planning Board recommends the Board of Commissioners take the following actions relative to the Key Harbor and Crescent Village Center development proposals:

- 1) Amend the text of the Sherrills Ford Small Area Plan to allow residential densities up to 3 units per acre when both public water and sewer serve an area, which is consistent with other small area plans in the County.

- 2) Rezone the Key Harbor and Crescent Village Center properties from R-80 Residential and RC Rural Commercial to Planned Development – Conditional District, based upon the following:
  - a. The recommendations of the Sherrills Ford Small Area Plan for a village center and higher density development in Key Harbor based upon the amendment in 1) above;
  - b. The availability and/or provision of adequate infrastructure as identified in the development agreement; and
  - c. The conditional notes, associated site plans, brochures, and supplemental information submitted as part of the conditional zoning process for Key Harbor and the Village Center.
- 3) Approve the attached development agreement including the Planning Board's amendments, the amenities, donations and improvements being provided by the developers which will serve to improve the quality of life, provide amenities and long-term benefits to the community.
- 4) Staff recommends the Board's adoption of the attached "Zoning Map Amendment Consistency Statement" which finds that the Key Harbor and Crescent Village Center rezoning are consistent with the Sherrills Ford Small Area Plan and are reasonable and in the public interest.

#### Attachments

## **ZONING MAP AMENDMENT CONSISTENCY STATEMENT**

Pursuant to N.C.G.S. §153A-341, and upon consideration of the Sherrills Ford Small Area Plan as amended, all materials presented to the County by Crescent Resources, Key Harbor Holdings, members of the public and county staff, and upon further consideration of the educational, recreational, environmental, growth, road improvement, economic and infrastructure needs of this area of Catawba County, the Catawba County Board of Commissioners finds the rezoning request to be consistent with the Sherrills Ford Small Area Plan and reasonable and in the public interest for the following reasons:

- 1) compact, interconnected mixture of uses, including single-family and multi-family residential, commercial, office and community uses, in a pedestrian-friendly, architecturally-integrated design with controlled driveway access to Highway 150 makes the Village Center conform to the Sherrill's Ford Small Area Plan.
- 2) public sewer introduced into the area allows for increased density, as recognized in other utility corridors in the Sherrills Ford area, while preserving open space through a cluster subdivision design, makes Key Harbor conform to the Sherrills Ford Small Area Plan.
- 3) higher zoning standards and site conditions imposed upon the Key Harbor and Village Center developments;
- 4) rezonings of Key Harbor and the Village Center, collectively with the density and land use controls of the Terrapin Creek and Mountain Creek tracts as controlled by the Development Agreement, create a unified, controlled total land use pattern for several large tracts within the Sherrills Ford area;
- 5) the compact, mixed-use design of the Village Center provides for a land use pattern which will lessen traffic along the Highway 150 corridor by providing for commercial opportunities in a centralized development located within the southeast area of the County as compared to individual developments scattered along Highway 150 or travelling outside of the County for retail opportunities;
- 6) the higher-density, mixed-use patterns contained in two centralized developments creates a smart-growth land use pattern which allows for density to be located within a compact area as opposed to spreading out across several parcels of land. This land use pattern also addresses stormwater runoff on a larger regional facility basis as opposed to smaller, more numerous stormwater facilities;
- 7) the rezoned tracts, together with the Development Agreement adopted on this same date, create a financial mechanism for providing public sewer within the growth corridor in this section of the County; and
- 8) through the rezonings and the accompanying Development Agreement the County has been able to attain through private expense numerous public amenities that more than mitigate the impact of this development and which include but are not limited to: land for a public school site, park land, up to 600

acres of environmentally sensitive land for public use, \$750,000 for a County service center or public safety equipment, land for public safety and other County services, substantial road improvements, land reserved for a medical center and a YMCA, school site improvements, land for sewer pump stations and lines, and dedication of highway right-of-way.

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Katherine W. Barnes, Chair  
Catawba County Board of Commissioners

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Date